



1 ENERGY AND ENVIRONMENT CABINET

2 Department for Natural Resources

3 Division of Oil and Gas

4 (Amended After Comments)

5 805 KAR 1:050. [Surety] Bonds; requirements, cancellation.

6 RELATES TO: KRS 349.120, 353.590

7 STATUTORY AUTHORITY: KRS 349.115 [~~Chapter 13A,~~] 353.540, 353.550

8 NECESSITY, FUNCTION, AND CONFORMITY: KRS 350.590 and KRS 349.120

9 requires operators filing a permit application to provide proof of bonding and provides [Provide] for
10 methods of giving notice to operators and sureties of noncompliance. This administrative regulation
11 establishes [Establish] requirements for [ef] release, cancellation and forfeiture of bonds.

12 Section 1. Bonds Required. As part of the permit or transfer application, the applicant shall
13 post a bond in an amount required by KRS 353.590(7) for oil or gas production wells or KRS 349.120
14 for coalbed methane wells.

15 Section 2. Surety Bonds. (1) An operator that chooses to post a surety bond to meet the
16 requirements of Section 1 of this administrative regulation shall file with the division an Individual
17 Surety Bond, OG-5 or a Blanket Surety Bond, OG-6.

18 (2) Cancellation of a Surety Bond. A blanket surety bond filed pursuant to KRS 353.590(12)
19 for production wells or KRS 349.120(1) for coalbed methane wells may be cancelled by the surety
20 by a communication in writing to division. Cancellation shall be effective only to relieve the surety
21 from liability under the bond for wells which permits have not been issued at the time of the receipt

1 of the notice by the division. Liability under the bond for wells which permits have been issued prior
2 to the receipt by the division of the notice shall not be affected by the cancellation.

3 Section 3. Property Bonds. An operator that chooses to post a property bond to meet the
4 requirements of Section 1 of this administrative regulation shall file with the division a completed
5 and notarized Property Bond, Form OG-15 pursuant to KRS 353.590(17).

6 Section 4. Other Bonds. An operator that chooses to post any other bond available to meet
7 the requirements of Section 1 of this administrative regulation shall file:

8 (a) Irrevocable Letter of Credit, Form OG-16;

9 (b) Verification of Certificate of Deposit, Form OG-20; or

10 (c) A completed and notarized Individual Cash Bond, Form OG-45 or Blanket Cash Bond,
11 Form OG-46.

12 Section 5 Notice of Noncompliance. (1) At any time the division causes a notice of
13 noncompliance to be served upon an operator a duplicate notice shall be provided to the surety,
14 the notice shall be sent by certified mail to the addresses [address] of record. Should the operator
15 fail to comply within the timeframe provided for in KRS 350.590(24), the bond shall be ordered
16 forfeited as provided in that section.

17 (2) For wells covered by a surety bond pursuant to Section 2 of this administrative regulation,
18 the surety shall be afforded the opportunity to act on behalf of the operator within the time set forth
19 in KRS 350.590(24) in regard to the proper plugging of the well or wells and submission of required
20 records.

21 Section 6. Bond Release. A bond shall be released upon the proper plugging of the well and
22 the filing with the division of all required records and fees or upon transfer of the well to a successor
23 operator pursuant to KRS 353.590 for production wells or KRS 349.120 for coalbed methane wells.

1 A bond shall not be released until a request has been made in writing by the operator or surety to the
2 division.

3 Section 7. Material Incorporated by Reference. (1) The following material is incorporated by
4 reference:

5 (a) "Individual Surety Bond", Form OG-5, June 2019;

6 (b) "Blanket Surety Bond", Form OG-6, June 2019;

7 (c) "Property Bond", Form OG-15, ~~October~~ June 2019;

8 (d) "Letter of Credit", Form OG-16, June 2019;

9 (e) "Verification of Certificate of Deposit", Form OG-20, June 2019;

10 (f) "Individual Cash Bond", Form OG-45, June 2019; and

11 (g) "Blanket Cash Bond", Form OG-46, June 2019.

12 (2) This material may be inspected, copied, or obtained, subject to applicable copyright law,
13 at the Division of Oil and Gas, 300 Sower Boulevard, Frankfort, Kentucky 40601, Monday through
14 Friday, 8 a.m. to 4:30 p.m., Eastern Prevailing Time.

15 ~~[At any time the department causes a notice of noncompliance to be served upon an operator~~
16 ~~(principal) pursuant to KRS 353.590(7), copies of such notice shall be mailed by registered or~~
17 ~~certified mail to the surety company at the address provided to the Kentucky Office of Insurance for~~
18 ~~receipt of notices. The surety shall be afforded the opportunity to act in behalf of the operator~~
19 ~~(principal) within the time set forth in KRS 353.590(7) in regard to the proper plugging of the well~~
20 ~~or wells and submission of required well log and completion reports, electric logs, if run, and~~
21 ~~plugging affidavits. Should the operator (principal) and surety fail to comply within the time~~
22 ~~provided for in KRS 353.590(7) then and in that event only the bond shall be forfeited as provided~~
23 ~~in that section.~~

1 ~~Section 2. An individual well bond shall be released upon the proper plugging of the well~~
2 ~~and the filing with the department of a plugging affidavit, well log and completion report and electric~~
3 ~~log, if run. A blanket bond shall be released upon the proper plugging of all wells of the operator~~
4 ~~(principal) covered by the bond, and the filing with the department of plugging affidavits, well logs~~
5 ~~and completion reports and electric logs, if run, for such wells.~~

6 ~~Section 3. A blanket surety bond filed pursuant to KRS 353.590(5) may be cancelled by the~~
7 ~~surety by a communication in writing delivered personally or by registered or certified mail to the~~
8 ~~office of the Division of Oil and Gas, Department for Natural Resources, provided such cancellation~~
9 ~~shall be effective only to relieve the surety from liability under the bond for wells which permits~~
10 ~~have not been issued at the time of the receipt of the notice by the department. Liability under the~~
11 ~~bond for wells which permits have been issued prior to the receipt by the department of the notice~~
12 ~~shall not be affected by the cancellation.]~~

805 KAR 1:050 approved for filing.
Pages (1-4)

10/14/2019

Date

Charles G. Snavely
Charles G. Snavely, Secretary
Energy and Environment Cabinet

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Administrative Regulation No.: 805 KAR 1:050
Contact Person: Michael Mullins

Contact number: (502) 782-6720
Email: michael.mullins@ky.gov

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes requirements of release, cancellation, and forfeiture of bonds.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to provide operators and sureties information related to bond release, cancellation, and forfeiture of bonds.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 353.590 and KRS 349.120 requires operators to provide proof of bonding as part of a permit application. This administrative regulation establishes requirements of release, cancellation, and forfeiture of bonds.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the statutes by providing requirements for the release, cancellation, and forfeiture of bonds.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This amendment will incorporate information related to bond release, cancellation, and forfeiture of coal bed methane wells into this administrative regulation. The amendment also adds statutorily authorized language related to bonding oil and gas wells and is no longer strictly related to surety bonds. This information was previously in 805 KAR 9:030. The amendments made in response to comments inserts language to clarify that the surety will receive a copy of any notice of noncompliance sent to an operator. The administrative regulation is also amended to insert "Eastern Prevailing Time" into the incorporation by reference section.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to consolidate two administrative regulations into one administrative regulation related to bond release, cancellation, and forfeiture. The amendments made in response to comments were necessary to insert language clarifying the Division's current practice of sending the surety a copy of notices of noncompliance that are sent to an operator that has a well secured by a surety bond and also to clarify that the time for copying material incorporated by reference is "Eastern Prevailing Time".

(c) How the amendment conforms to the content of the authorizing statutes: The amendment consolidates bonding information required by KRS 353.590 and 349.120 into this

administrative regulation. The amendments made in response to comments clarifies the Division's current practices.

(d) How the amendment will assist in the effective administration of statutes: These amendments will assist in the effective administration of the statutes by consolidating two administrative regulations related bonding oil and gas wells. The amendments will assist in the effective administration of the statutes by clarifying the Division's current practice when issuing notices of noncompliance and the Division's hours of operation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation. There are approximately 1,060 active oil and gas operators in the commonwealth

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The regulated entities identified in question (3) will meet the same bonding requirements. However, the information related to bond release, cancellation, and forfeiture for coal bed methane drilling will now be in this administrative regulation instead of 805 KAR 9:030. To comply with the amendments made in response to comments the regulated entity will need to be aware that a copy of the any notice of noncompliance issued to the operator will also be sent to the surety for wells covered by a surety bond. The entities will also need to be aware that the Division's listed hours of operation in the material incorporated by reference section are Eastern Prevailing Time.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will be no additional costs related to these amendments.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): As a result of compliance, entities will be able to find all information related to bonding for oil and gas drilling in one administrative regulation. The entity will have knowledge that copies of notices of noncompliance are also going to be provided to the surety for wells covered by a surety bond.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: The division will not incur any additional costs for the implementation of this administrative regulation.

(b) On a continuing basis: The division will not incur any additional costs for the implementation of this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: A combination of general and restricted funds will be used for the implementation of this administrative regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment. No increase in fees or funding is necessary to implement this amendment.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees. This administrative regulation does not establish any fees, nor does it directly or indirectly increase any fees.

(9) TIERING: Is tiering applied? (Explain why tiering was or was not used.)

No, tiering was not used. The provisions in this administrative regulation will apply equally to all oil and gas operators.

FISCAL NOTE ON STATE AND LOCAL GOVERNMENT

Administrative Regulation No.: 805 KAR 1:050
Contact Person: Michael Mullins

Contact number: (502) 782-6720
Email: michael.mullins@ky.gov

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation?

This administrative regulation applies almost entirely to the Division of Oil and Gas.

2. Identify each state or federal statute or federal regulation that requires or authorizes action taken by the administrative regulation. KRS 349.120 and 353.590.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? The proposed administrative regulation will not generate revenue in the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? The proposed administrative regulation will not generate revenue in subsequent years.

(c) How much will it cost to administer this program for the first year? The cabinet's current operating budget will be used to administer this program for the first year.

(d) How much will it cost to administer this program for subsequent years? The cabinet's operating budget will be used to administer this program for subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impacts of the administrative regulation.

Revenues (+/-):	There is no known effect on current revenues.
Expenditures (+/-):	There is no known effect on current expenditures.
Other Explanation:	There is no further explanation.

SUMMARY OF MATERIAL INCORPORATED BY REFERENCE
805 KAR 1:050

This administrative regulation incorporates the following documents:

I. Individual Surety Bond, Form OG-5 (June 2019) This form is used by oil and gas operators to provide proof of individual surety bond coverage. This is a new form and consists of 1 page.

II. Blanket Surety Bond, Form OG-6 (June 2019) This form is used by oil and gas operators to provide proof of blanket surety bond coverage. This is a new form and consists of 1 page.

III. Property Bond, Form OG-15 (October 2019) This form is used by oil and gas operators to provide proof of property bond coverage that will suffice as bonded coverage for the amounts found in KRS 353.590(7). This form was amended in response to comments in order to clarify that property bonds could not be used to secure a permit to drill a well. A property bond can only be used when acquiring a well such as a transfer of well ownership. This a new and form consists of 6 page.

IV Letter of Credit, Form OG-16 (June 2019) This form is provided for well operators to provide proof of a letter of credit that will suffice as bonded coverage for the amounts found in KRS 353.590(7). This is a new form and consist of 2 pages.

V. Verification of Certificate of Deposit, Form OG-20 (June 2019) This form is provided for well operators to provide verification of a deposit to act as a bond for oil or gas activities for the amounts found in KRS 353.590(7). This is a new form and consist of 1 page.

VI. Individual Cash Bond, Form OG-45 (June 2019) This form is used by oil and gas operators to provide record of individual cash bond coverage that will suffice as bonded coverage for the amounts found in KRS 353.590(7). This is a new form and consist of 1 page.

VII. Blanket Cash Bond, Form OG-46 (June 2019) This form is used by oil and gas operators to provide record of blanket cash bond coverage that will suffice as bonded coverage for the amounts found in KRS 353.590(7). This is a new form and consist of 1 page.